

# Exhibit B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: :  
: Docket #03mdl1570  
TERRORIST ATTACKS On :  
SEPTEMBER 11th, 2001 :  
: December 2, 2010  
: New York, New York  
-----:

PROCEEDINGS BEFORE  
MAGISTRATE JUDGE FRANK MAAS,  
UNITED STATES DISTRICT COURT CHIEF MAGISTRATE JUDGE

APPEARANCES:

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1 THE COURT: By December 29, and that any  
2 opposition papers be filed by January 10. That'll give me  
3 hopefully some prayer of reading through all of this before  
4 you folks are before me on the 14<sup>th</sup>.

5 And we've got the Al-Haramain Foundation issue,  
6 where, frankly, I don't have my decision in front of me.  
7 Hang on, maybe I do have it here. Oh, right, it was - bear  
8 with me a second.

9 (pause in proceeding)

10 MR. KABAT: Well, Your Honor, you pointed out in  
11 the letter we could file objections if we think it's  
12 (inaudible) the Al-Haramain Foundation doesn't set a date to  
13 comply with the discovery responses until objections have  
14 been resolved by (inaudible).

15 THE COURT: Well, the objections don't stay an  
16 order that I've given, but, quite frankly, I'm not sure  
17 there's much point to my setting a date because the position  
18 of the Saudi entity is that there are no documents it can  
19 get because it's been locked out of its office. The U.S.  
20 entity is no better able presumably to get documents that  
21 may exist in Saudi Arabia --

22 MR. HAEFELE: Your Honor --

23 THE COURT: -- and that's --

24 MR. HAEFELE: Your Honor --

25 THE COURT: Hang on a second. In that

1 circumstance doesn't seem like one that's going to change  
2 over the next period of time. So if Judge Daniels at some  
3 point rules on the objections, I can then direct that the  
4 documents be produced in ten days, and that will then tee up  
5 the issue.

6 MR. HAEFELE: Your Honor, this is Robert Haefele  
7 from Motley Rice. One factual clarification I just want to  
8 make is if you look back at the papers that were filed,  
9 there was not, to my understanding when I looked back, a  
10 filing from the Al-Haramain headquarters on that issue.  
11 What you got was documentation from individuals on behalf of  
12 the, who are representatives of the U.S. headquarters or  
13 U.S. branch that said what you just said. It wasn't Al-  
14 Haramain Saudi's headquarters' office that said that.

15 THE COURT: No, I think that's right, but --  
16 (interposing)

17 THE COURT: Hang on a second, but am I mistaken  
18 in my understanding that Mr. Kabat was purportedly to  
19 represent both?

20 MR. HAEFELE: I'll let him speak to that, but  
21 it's my understanding that Al-Haramain, the headquarters,  
22 had entered an appearance by a different lawyer and - well,  
23 I'll let Mr. Kabat say whether he represents both at this  
24 point though.

25 MR. KABAT: Your Honor, Alan Kabat here. We do

1 not represent Saudi Al-Haramain group.

2 THE COURT: Okay. Well, so then I guess the  
3 issue is --

4 MR. HAEFELE: Your Honor, can I interject one  
5 more thing?

6 THE COURT: Sure, absolutely.

7 MR. HAEFELE: What we've been trying to do really  
8 is get the discovery rolling and get it rolling on a level  
9 that would be consistent with what Your Honor's previous  
10 decisions were and what the scheduling was for all of the  
11 defendants. And given that, as Your Honor indicated  
12 correctly, the objections don't necessarily stay in any  
13 order, it would seem consistent with Your Honor's previous  
14 orders that they should at least be obligated to produce,  
15 all of the defendants will be obligated to produce by the  
16 deadline in early January that Your Honor set.

17 THE COURT: I think that's correct, but as a  
18 practical matter, I'm unlikely to do anything with respect  
19 to Al-Haramain further until Judge Daniels rules, and I  
20 don't think that's going to prejudice you because it doesn't  
21 appear that any - Mr. Kabat can correct me if I'm wrong - if  
22 the objections are overruled, that's not going to lead to  
23 more documents being produced. Am I misapprehending that?

24 MR. HAEFELE: The answer I think is no one knows  
25 because there has been no word from the lawyer representing

1 the Saudi headquarters as to whether or not - I mean one of  
2 the concerns we have, Your Honor, is we don't even have  
3 initial disclosures from the lawyers representing the Saudi  
4 headquarters.

5 THE COURT: Right, and I guess I'm not astonished  
6 by that. I guess I was operating with the assumption, and  
7 we had alluded to it last time, that certain of the  
8 defendants who are in the case now may, in fact, default,  
9 both in discovery obligations and every other obligation.

10 (interposing)

11 MR. HAEFELE: I guess my perspective, Your Honor,  
12 would be I would rather in a sense, I don't mean this in a  
13 derogatory way, but I would rather force their hand to do  
14 that so that we know sooner rather than later that that's  
15 what they're planning on doing. And if Your Honor orders  
16 them to have a deadline, and if they don't meet that  
17 deadline, then we have a better indication of who's actually  
18 active in the case.

19 THE COURT: Well, I directed that rolling  
20 productions begin by what date? I know I said they're to be  
21 completed by April 29. Refresh my recollection as to when I  
22 said they should begin. Responses were to be January 7. I  
23 guess it was from that date forward that there be a rolling  
24 production.

25 MR. HAEFELE: That was my understanding, Your

1 Honor, and, quite frankly, our position would be that to the  
2 extent that there is any documents that were covered by Your  
3 Honor's order that do exist and were objected to but now  
4 Your Honor has overruled, those should be produced  
5 immediately at the beginning, at the inception of that  
6 deadline rather than throughout the rolling production,  
7 especially given that these are requests that have been  
8 outstanding for years.

9 THE COURT: As to -

10 MR. KABAT: Your Honor, may I briefly step in?  
11 I just want to reiterate that our client, the (inaudible)  
12 Group, simply has no ability to get the documents from the  
13 Saudi group. We've made that clear, and we know the  
14 plaintiff waited five years to file the motion to compel.  
15 So any delay (inaudible) problem of their own making.

16 THE COURT: What I'm willing to do, because maybe  
17 it'll give us a paradigm for discussion, is I will say that  
18 the Al-Haramain Saudi entity is to produce its documents by  
19 January 7. It hasn't filed -

20 (interposing)

21 MR. KABAT: -- documents we have --

22 THE COURT: Sorry? I didn't hear what you said,  
23 Mr. Kabat.

24 MR. KABAT: (no response)

25 THE COURT: Hello? Did we just lose everybody?



1 (interposing)

2 MR. HAEFELE: He may not have heard you, Your  
3 Honor.

4 THE COURT: Oh, Mr. Kabat, you said something  
5 that I didn't hear.

6 MR. KABAT: I said we will certainly produce what  
7 documents we have on January 7, but we do not currently have  
8 any access to the Saudi documents. And I would be surprised  
9 if we get access by January 7, but if we do, we'll produce  
10 those as well.

11 MR. HAEFELE: Your Honor, can we ask for one  
12 clarification in writing? When Mr. Kabat says that he has  
13 or his client has no documents, I want to make sure that  
14 we're not doing the same things we've done with Miss Lukee's  
15 client where the documents happen to be in the lawyer's  
16 possession and not in the client's possession. We'd like  
17 that in writing if that's the case.

18 THE COURT: Well, as to any defendants or anybody  
19 subpoenaed, the documents that are to be produced are those  
20 within the defendant or subpoenaant's possession, custody,  
21 or control, and documents in the hands of lawyers and  
22 accountants and other agents are in the custody or control  
23 of a party that was subpoenaed or requested to produce the  
24 documents. So that I think is clear with respect to all  
25 entities.

1           In light of what Mr. Kabat said, I will direct  
2 that both of the Al-Haramain entities produce their  
3 documents by January 7.

4           MR. KABAT:    Yes, Your Honor, Alan Kabat here.  
5 (inaudible) documents that we have and our client has will  
6 be produced if they haven't already been produced.

7           THE COURT:    Okay, terrific. And I didn't  
8 explicitly say, but I would like to receive in advance of  
9 the January 14 conference a letter, say, by - I'm mindful  
10 that the holidays are between now and then, again, a letter,  
11 hopefully a joint letter, by January 10 - I think we should  
12 be getting back to joint letters - identifying the issues  
13 that people believe ought to be discussed on January 14 and  
14 the two sides' positions with respect to that. And I'll  
15 leave it to you folks to figure out how to manage to make it  
16 a joint letter. Is that acceptable?

17           MR. HAEFELE:   Yes, Your Honor.

18           MR. KABAT:    Yes, Your Honor.

19           THE COURT:    Anything else anybody wishes to bring  
20 up today?

21           MR. GOLDMAN:   This is Jerry Goldman. There's a  
22 bit of ambiguity, and we'd like some clarification, in terms  
23 of Your Honor's desires with the five-day rule with regard  
24 to advance notice. Specifically when does the responding  
25 party have to make its submission to the Court?

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C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, In Re: Terrorist Attacks on September 11, 2001, docket #03md11570, was prepared using digital electronic transcription equipment and is a true and accurate record of the proceedings.

Signature\_\_\_\_\_

CAROLE LUDWIG

Date: December 7, 2010